IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

CRP.No. 1054 of 2006(A)

OP(ELE.)67/2004 of DISTRICT COURT, KASARAGOD
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REVN. PETITIONER: RESPONDENT:

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDHYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER:

SRI.M.A. KUNHIKRISHNAN,
S/O. RAMAN RAMAVARMAN, AGED 48 YEARS, COOLIE,
MATTAMMAL VEEDU, THIMIRI P.O., KASARAGOD DIST.

BY ADV. SRI.GRASHIOUS KURIAKOSE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1054 OF 2006

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Dated this the 10th day of October, 2007.

O R D E R

This revision petition is preferred against the order of the District Judge, Kasaragod in O.P.(Ele.)67/04. The Court has awarded a compensation of Rs.35,774/- with interest at the rate of 6% per annum. The Court below relied upon the decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542)*** and held that the percentage to be applied is 5%. The said matter was taken up before the Apex Court and the Apex Court by the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) had set aside that order and remitted back the matter to the High Court for fresh disposal. The Apex Court also observed that,

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant

factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case.

2. So, in the light of the decision of the Apex Court the matter requires further factual consideration and therefore the order under challenge is set aside and the matter is remitted back to the learned District Judge for fresh consideration and disposal in the light of the principles enunciated by the Apex Court in the decision reported above. The parties are directed to appear before the Court below on 13.11.07.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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